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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/868,819	10/04/2001	Mikko Oikkonen	061603-0210	6311
30542 7590 06/02/2009 FOLEY & LARDNER LLP P.O. BOX 80278 SAN DIEGO, CA 92138-0278				
EXAMINER				
DENNISON, JERRY B				
ART UNIT		PAPER NUMBER		
2443				
MAIL DATE		DELIVERY MODE		
06/02/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action
Before the Filing of an Appeal Brief

Application No.

09/868,819

Applicant(s)

OLKKONEN ET AL.

Examiner

J Bret Dennison

Art Unit

2443

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 22 May 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1,4-10,12-25 and 27-29.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: see Note Below.
12. ☐ Note the attached Information *Disclosure Statement(s)*. (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

/J Bret Dennison/
Primary Examiner, Art Unit 2443

Applicant's amendment to claims 16 and 18 do not correct the issues with these claims. The limitation, "on a time slot number that at least one of said first and second nodes knows is associated with data" is still unclear as what is meant by the nodes knowing what is associated with data.

Applicant describes the invention that the features of the gateway may be transparent to the user.

In response, Examiner notes that nothing in the claim requires any type of transparency to the user.

Applicant argues, "Wilkes fails to teach or suggest forming a header for said IP protocol datagram based at least partly on circuit switched channel identifying parameters" [Response, p9].

Examiner respectfully disagrees.

Examiner notes that Wilkes clearly provides the functionality of converting a call into IP packets, sending these packets across the Internet, and then converting the packets back to the call format data on the receiving side and then sending the data to the destination phone.

Firstly, in order for the receiving voice engine to be able to identify where to forward this call data, there must be an identifier within the received packets in order to send the data along the proper channel to its destination. This means that the sending voice engine must include some type of identifier within the packets when converting the call data into the packets. This identifier clearly must come from the call data received by the sending voice engine. As such, it is clear that the packet must include some type of identifier within the header to allow the receiving voice engine to determine which channel to send the call data in order for it to reach the destination.

Applicant argues, "the VoiceEngine does not multiplex voice communications, but rather distributes a singular communication signal to multiple locations based on the subscriber" [Response, p 10].

In response, Examiner notes that even if the VoiceEngine obtains an identifier (or multiple identifiers) of the receiving phone(s) from the subscriber, the VoiceEngine still must convert that call data and specify in each IP packet these identifiers so that the receiving VoiceEngine can properly distribute the call data out on the correct channels so the call data reaches the proper destination. There's no way of doing this without an identifier that is used to determine the proper channel.

The Applicant then argues that Wilkes fails to disclose the optional limitation, "allowing the VoiceEngine to receive data to that channel from other sources from an IP-network in a non-consecutive manner" [Response, p11].

In response, Examiner notes that there is nothing in the invention of Wilkes that prevents this from occurring. There is also nothing in Wilkes that prevents a VoiceEngine from handling separate connections at the same time.

Therefore, the rejections are respectfully maintained.